

1 RECORD OF ORAL HEARING
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3 UNITED STATES PATENT AND TRADEMARK OFFICE
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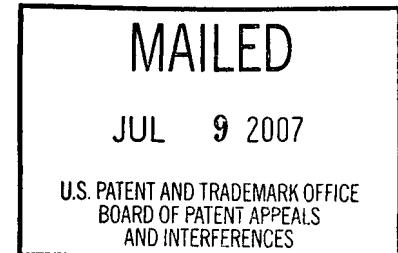
6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
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10 Ex parte MATTHEW ROZEK and
11 BART FULLER
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14 Appeal 2007-1235
15 Application 09/748,125
16 Technology Center 2100
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19 Oral Hearing Held: June 6, 2007
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22 Before HUBERT LORIN, ANTON FETTING, and LINDA HORNER
23 Administrative Patent Judges
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26 ON BEHALF OF THE APPELLANT:
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34 The above-entitled matter came to be heard on June 6, 2007,
35 commencing at approximately 9:14 a.m., at the United States Patent and
36 Trademark Office, 600 Dulany Street, Alexandria, Virginia.
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1 JUDGE LORIN: Good morning, Counsel. Mr. Articola?

2 MR. ARTICOLA: Yes, that's correct.

3 JUDGE LORIN: Welcome. This is appeal number 2007-1235.

4 We're familiar with the case. You may go to the dispositive issues. Proceed
5 when you're ready.

6 MR. ARTICOLA: This is a brief of the invention. It relates to a
7 business-to-business electronic converse system whereby you convert from a
8 document of one type to a document of another format. In this case in the
9 claims, the translator checks compliance of a document for translation from
10 a first format, a source format, to a desired target format. During that
11 translation, errors that are detected during the translation are captured and
12 stored in a tracking database along with an identifier, or the identifier is
13 basically obtained from document itself for later correlation.

14 In the rejections of the claims, basically the rejection of the
15 independent claims is over two references, Ricker, the primary reference,
16 and Puckett. Ricker, the rejection was based on it shows an EDI to XML or
17 vice versa translation system where the pertinent words in that document are
18 that it performs translation using an EDI message as translated to a well
19 formed XML document. The examiner interpreted that as well, it's
20 performing translation. To do a well formed document it must determine the
21 errors and store the errors.

1 With all due respect, yes, it's performing a translation, but there's no
2 teaching or suggestion that errors are being stored anywhere. It's just doing
3 its best in the translation, a standard translation. It seems to be a stretch to
4 go from, yes a translator translates a document from format one to format
5 two, to say that by doing that it's detecting errors, storing those errors and
6 storing them with some kind of identifiers.

7 JUDGE LORIN: Counsel, I'd like to stop you for a second because I
8 read this argument you're making in the brief. You mentioned in the brief
9 that Ricker doesn't show that the translation error is captured in the tracking
10 database. That's what the examiner is using Ricker for. I looked at the final
11 objection and I looked at the answer and the examiner is using Puckett for
12 that.

13 MR. ARTICOLA: Yes, he's using Puckett for the fact that there's an
14 error log. So the fact that there's an error log in Puckett, Puckett's facing a
15 system where it's thousands of sensors all over the place. Each of those
16 sensors is outputting data, and say, okay, there's an error in this pump at time
17 X1 and there's an error in this boiler at time T2. All that data is being stored
18 into a database, now an error log database. What happens then is a translator
19 translates that data so they can be parsed, so it turns into English language
20 equivalent. So I can say, you know what, tell me what all the errors that
21 occurred in pump 15 between Sunday, June 5 and Monday, June 6.

1 Based on that translator doing that translation, it can then pull the
2 relevant data. The translator is translating error data. It's not the fact that
3 the data of a translator is being stored in a log data base; it's almost looking
4 at two different things entirely. In Puckett we aren't looking at the problems
5 with the translator doing translation. The translator is doing it fine. It's just
6 translating error data per se, while we have a translator and the translator is
7 doing its thing and errors are occurring and those errors of the translation are
8 being stored. So irrespective of how you look at Ricker and Puckett, Puckett
9 clearly is doing an entirely different thing and entirely different stuff.

10 It's not so we combine Ricker with Puckett, what do you get? I don't
11 know, but you certainly won't get a translator doing its thing, errors coming
12 out of translation and being stored in an error database. Rather you would
13 have an error database and then the translator is doing its thing on that,
14 where the translator is presumably doing fine and the translator provides
15 error data in a different format.

16 JUDGE LORIN: Let me see if I understand what you're saying. You
17 can see that Ricker shows capturing errors, but not in a database. They have
18 a translator and they recognize errors in the translation, right? Then you
19 have Puckett that also recognizes errors. The errors are captured in a
20 database. But then you're saying they're going one step further and taking
21 those errors in the database and translating them?

1 MR. ARTICOLA: Right. We are looking at the errors of the
2 translator. The translator is saying, I'm going to work on this error database
3 and translate it into a format that you can then parse with queries to pull
4 what you want. That's totally different from saying, Puckett's translator is
5 doing something and doing it incorrectly and we're storing those errors in a
6 translator error database and then later on using that stuff.

7 That's not what Puckett's doing. Puckett's translator is working on an
8 already determined error database of sensors. Those sensors aren't doing
9 translation. Those sensors are just sensing signals and power and
10 temperature and performing that process. Perhaps you're right about how we
11 interpreted Ricker, but the combination, Puckett really goes off to left field
12 doing something interesting, but clearly not in terms of how we're claiming
13 it.

14 JUDGE LORIN: My understanding, are you saying it teaches a way,
15 or what does Puckett do?

16 MR. ARTICOLA: It just doesn't teach anything close to what we're
17 doing. It's not using a translator and a translator having errors, and those
18 errors are the translation itself being stored in an error database. Rather the
19 translator of Puckett is translating already determined error data from
20 sensors and processing that data to a different format. They both miss the
21 fact that the translation errors of a translator are stored in an error database.
22 Rather, it's the errors of sensors are translated and then stored in an error

1 database, or a second error database. It's basically directed to a different
2 claim which we certainly don't have. That's sort of the major arguments
3 concerning the independent claims. There's a secondary argument with
4 Yang.

5 MR. LORIN: Let me stop before you get to Yang. You had another
6 argument that the references didn't teach linking an identifier. Do you want
7 to speak to that for a second? Your brief has two issues with regard to
8 Puckett and Ricker, the first which you just discussed, extracting data and
9 putting into the database, and the second one was that there's no linking of
10 an identifier with the error data in the database.

11 MR. ARTICOLA: Yes, again because Puckett isn't looking at the
12 errors of the translator itself, so it's not really pertinent to what Puckett is
13 doing. Our argument there, it's more like Puckett isn't directed to a
14 document to document thing. It's more like here are these sensors. The
15 sensor data is already in the database and it's going to do a translation of
16 that data.

17 It doesn't care that this data point, it got stored in memory location
18 five, comes from whatever; it's just doing a translation of it and letting you
19 decide with a query what you can pull. It doesn't care that this data here
20 comes from document 15 of an EDI system because that's not what Puckett's
21 doing. Puckett's just collecting a vast amount of data from a big system --
22 like I said, consider Crystal City's power system -- storing it and letting the

1 translator do its thing to it. It doesn't care, like I say, where everything is
2 tied to because what you do to queries, the queries will pull the relevant
3 data. The translator is just going to translate it and leave it at that.

4 I think the second argument was more about the fact that Puckett
5 really doesn't deal with electronic interchange system and so it doesn't need
6 to do that identifier part because it's not really pertinent to what it's doing, if
7 that makes any sense.

8 JUDGE LORIN: It sounds like you're trying to make an non-
9 analogous kind of --

10 MR. ARTICOLAL: Sort of, yes. It's just not in the same area as
11 Ricker, for example. Ricker definitely isn't an EDI system; there's no doubt
12 about that.

13 JUDGE LORIN: Thank you. You also discuss claims 11 and 12; do
14 you want to speak to that for a second?

15 MR. ARTICOLA: Yes. Let me check on those real quick. Again it
16 goes, Puckett really isn't dealing with EDI where documents of different
17 types are being converted from type one to type two, and therefore, Puckett's
18 more into the sensor collection system. The features in claims 11 and 12,
19 which are really directed to a document and developing information, there is
20 no document . There is no developing information in Puckett because
21 Puckett doesn't deal with documents; it deals with sensor, temperature,
22 pressure. Those features 11 and 12, document and developing information,

1 those aren't pertinent to what Puckett is doing because Puckett isn't looking
2 at document data.

3 JUDGE LORIN: Are you saying that the prior art must teach that the
4 error that's being stored in the database must be errors from a document,
5 secondary art must show that?

6 MR. ARTICOLA: Are you talking about the independent claims?

7 JUDGE LORIN: Correct.

8 MR. ARTICOLA: Claim one says attempting translation of a
9 document and capturing error data representing errors detected in the
10 translation to a tracking database. So errors are done during translation of
11 the document to a tracking database. It's during the translation time period
12 we're capturing error data of the document. So, yes. It's whatever claim C,
13 step C of claim one recites, which is during this translation, capturing error
14 data, representing errors detected in the translation of the document to a
15 tracking database.

16 JUDGE LORIN: You were also going to speak to claims 21 and 22.

17 MR. ARTICOLA: Yes, those claims go with sort of display of the
18 internal document identifier to identify translation errors, data. In that case,
19 the examiner utilized Yang, which is a translation system in general that
20 deals with scripts, queries, where it translates from script language so you
21 can then perform your -- again, parsing information from this script.

22 In Yang he adds a general system dealing with translations, but it

1 doesn't use identifiers and it's also, again, not really pertinent to what we're
2 doing. It's more shell scripting and application documents, so an
3 application, say Excel, you're running it and you want to perform scripting.
4 It's nothing to do with document interchanges and that.

5 Yes, it's a general translation of a document in format one to a
6 document scripting information so it can be parsed by queries. But that by
7 itself -- and yes, it's display, so it's error in -- I think that software code that
8 was shown in column nine shows error, the translation does not work. Yes,
9 it will provide you with a display that says the translation of this script
10 wasn't performed because it couldn't do it, but that doesn't teach us just the
11 features in claim 21, which is using an internal document identifier.
12 Basically it's looking at the script itself and not some separate identifier,
13 which might be, I don't know, identifier 15 for document four or something
14 like that, to then provide that to the training partner.

15 Again, it's because it's just in a general area of translation. It's not
16 really relevant to what Yang is doing.

17 JUDGE LORIN: Any questions?

18 JUDGE HORNER: I have a question. Let's say for a minute that we
19 agree with your argument that the secondary reference just shows maybe
20 nothing more than a database of errors and identifiers, but it doesn't show it
21 in the context of errors taken from a translated document. Why wouldn't it
22 have been obvious for someone skilled in the art to use that error database

1 for a purpose other than the purpose that it was used for in the reference
2 itself? Why wouldn't it have been obvious to say error databases are known
3 with identifiers as a way to keep track of errors?

4 MR. ARTICOLA: Puckett deals with, like I say, collecting large
5 amounts of data for purposes of allowing you, a translator, to then translate
6 that data, the error data, so that you can then parse it. The purpose of
7 Puckett is you're collecting large amounts of data, error data, and you're then
8 using a translator for converting that data to a format that can be easily
9 parsed by me asking for a query, like I mentioned earlier.

10 That teaching goes totally separate from what Ricker is doing, which
11 is just using a translator and translating it. It doesn't care about the errors of
12 the translator. Ricker is doing good translation or doing its best. To argue
13 that we're going to use Puckett's translator totally different, not just to
14 change error data per se, but now to look at itself. It's almost like I'm using
15 my translator not just to look at the error data, but to check its own
16 operations. It's almost like asking me to grade myself. I'd probably give
17 myself a good grade, but it probably wouldn't be very proper.

18 JUDGE LORIN: That's not how I see it. If you have a reference that
19 has a translator that's checking for errors, Puckett's teaching a completely
20 different translator, correct?

21 MR. ARTICOLA: Puckett's teaching the translator to translate the
22 errors itself.

1 JUDGE LORIN: Right, but if you look at the first reference, one of
2 ordinary skill looking at this reference, and you're getting documents going
3 through the translator and it's capturing errors --

4 MR. ARTICOLA: That argument there, I'm not sure I agree. All
5 Ricker's saying in that short document is it's forming a well-formed
6 document. Who knows what it's doing with the errors? Maybe it's just
7 dropping them and not even caring about them, because it's just trying to do
8 its best.

9 JUDGE FETTING: Wait. Error checking is certainly, I would assert,
10 notoriously well-known. I mean how can you write a program that you
11 expect to sell in commerce that doesn't check for errors?

12 MR. ARTICOLA: Will it store them? Who knows? Does it care
13 about those errors? I have no idea. It probably doesn't care. It doesn't
14 mention anything about where does it --

15 JUDGE FETTING: What would one of ordinary skill in the art do
16 with errors in a system such as this?

17 MR. ARTICOLA: Ricker?

18 JUDGE FETTING: Yes.

19 MR. ARTICOLA: Basically the teachings of Ricker, it would just try
20 its best to translate. It would be a translated document. Whatever errors are
21 there --

1 JUDGE FETTING: What do you do with it? What does one of
2 ordinary skill in the art do with errors in translators? I think it's pretty well-
3 known. I can go to my PC and I can see probably 10,000 log files. Log files
4 are the predominant method of tracking errors. You look in the log file and
5 it has all kinds of identifiers in there. Isn't that the conventional way of
6 tracking errors, especially in a batch process such as this?

7 MR. ARTICOLA: I can't say based on the teachings of Ricker. If
8 you know that to be a fact, I'll have to defer to you. But in Ricker it's just
9 trying to do its translation. But again, Puckett is just looking at the translator
10 to translate its errors -- not its own error, not errors of another translator.
11 Then you have two separate translators and then you're thinking one of
12 ordinary skill becomes one of super ordinary skill in the art and that's where
13 I think it gets --

14 JUDGE LORIN: No, the argument is that in Puckett you're right, it's
15 capturing errors and translating errors.

16 MR. ARTICOLA: Errors of sensors.

17 JUDGE LORIN: In other words, what you're saying is that translator
18 in Puckett could not be applied. It's dealing with something completely
19 different than what is going on in Ricker?

20 MR. ARTICOLA: Puckett was more directed to -- document stuff,
21 and then you might have some kind of -- where you're going might have
22 some relevance, but Puckett's really out there in looking at sensors, my little

1 house alarm system, and looking at that stuff. To say, I'm saying I'm going
2 to look at the house alarm system and look at what that translating is doing
3 to errors, to put that with Ricker then really seems to me you're reaching into
4 combining those two different things that are performing--

5 JUDGE LORIN: Yes, Puckett, there's two different steps going on.

6 They're capturing the errors in another database?

7 MR. ARTICOLA: Right.

8 JUDGE LORIN: That in itself, that piece is well-known; is it not?

9 MR. ARTICOLA: Capturing sensor data, is Puckett's.

10 JUDGE LORIN: You mean other than sensor data it's never been
11 known?

12 MR. ARTICOLA: Capturing data.

13 JUDGE LORIN: Capturing data? You're capturing error in a
14 database?

15 MR. ARTICOLA: Yes. Then Puckett is translating those.

16 JUDGE LORIN: I understand that Puckett is going one step further. I
17 understand that, but just that piece, that it captures errors and then puts it
18 into a database, that's not in and of itself novel, is it?

19 MR. ARTICOLA: The fact that you're capturing errors from devices?
20 No. That by itself --

21 JUDGE LORIN: That by itself--

22 MR. ARTICOLA: If Puckett's teaching capturing of errors --

1 JUDGE LORIN: I know they go one step further.

2 MR. ARTICOLA: Yes.

3 JUDGE LORIN: But they're just taking errors, putting it into a
4 database?

5 MR. ARTICOLA: Right. Does it matter to you to capture the errors
6 of a translator and store those in a database?

7 JUDGE LORIN: No, you're not capturing --

8 MR. ARTICOLA: And then process --

9 JUDGE LORIN: Yes, but your invention is not capturing errors from
10 the translator. You're capturing errors from the document.

11 MR. ARTICOLA: As performed by the translator.

12 JUDGE LORIN: But the translator does nothing more than take the
13 document, compare it to the source with your destination format.

14 MR. ARTICOLA: Right, but the errors are errors detected in the
15 translation, the translation errors.

16 JUDGE LORIN: I understand that, but the translation is very broad.
17 It's just a matter of taking a document, comparing it with the document you
18 want it to look like and marking down the differences.

19 MR. ARTICOLA: Whatever the case may be. It's the translation
20 errors, so the errors during that translation step.

21 JUDGE LORIN: Are then put in a database.

1 MR. ARTICOLA: Then put in a database and stored with identifiers
2 in the step T.

3 JUDGE LORIN: I'm trying to understand your argument. Your
4 argument is that Puckett is directed to storing a type of error that Ricker's not
5 involved in?

6 MR. ARTICOLA: Right. Puckett's in a totally different field in terms
7 of what it's doing, and the translator is translating those errors to let those
8 errors be parsed by some kind of query. It's not that the translator has done
9 something and then those errors are put into a database, then we use another
10 translator to --

11 JUDGE LORIN: Yes, I know, but you're repeating this issue of
12 another translator. Your claims are broad enough to include a second
13 translator to translate the errors?

14 MR. ARTICOLA: Right, but at least Puckett doesn't --

15 JUDGE LORIN: So the issue is not that the art is teaching an added
16 translator because your claim covers adding another translator. The issue
17 really is that you're looking at the two references. One of ordinary skill
18 could not combine these two references, could not combine capturing errors
19 into a database with the comparison of the documents in identifying errors,
20 which is what Ricker does. One of ordinary skill wouldn't combine the two
21 because they're dealing with two different types of errors.

1 MR. ARTICOLA: In two different types of systems completely. One
2 is an electronic document system and one is a sensor collection extraction
3 for thousands and thousands of information. But the information that is
4 being collected, you have to have that information analyzed and processed
5 so that when you do the queries you don't take all day trying to pull out the
6 information. You've done the translation, which makes it so it's much easier
7 and much more compact, so you don't spend 30 minutes on your processor
8 to then extract that information. Because the sensors are outputting
9 continuously the data and there's a lot of processing, a lot of checking going
10 on in that system of Puckett because there's large amounts of data in the
11 error log.

12 JUDGE LORIN: Okay, Counsel, thank you. Any questions? Thank
13 you very much. It's been helpful, and we'll take the case under advisement.

14 Whereupon, at 9:35 a.m., the hearing was concluded.